

FINAL

**FINDING OF NO SIGNIFICANT IMPACT
AND FINDING OF NO PRACTICABLE ALTERNATIVE**

**IMPROVEMENT OF PEARSON RESERVOIRS
F.E. WARREN AIR FORCE BASE, WYOMING**

DECISION

It is my decision to approve the proposed action as described in the Improvement of Pearson Reservoirs Environmental Assessment (EA), which is attached and incorporated by reference. F.E. Warren AFB will make improvements to water depth and thereby, water quality, and improve recreational opportunities at both Pearson Reservoirs located within the boundaries of the installation.

FINDING OF NO SIGNIFICANT IMPACT

The EA was prepared and evaluated pursuant to the National Environmental Policy Act (Public Law 91-190, 42 U.S.C. 4321 *et seq*) and the Air Force Environmental Impact Analysis Process (32 CFR 989). I have concluded that the Proposed Action does not constitute a "major federal action significantly affecting the quality of the human environment" when considered individually or cumulatively in the context of the referenced Act, including both direct and indirect impacts. Therefore, an Environmental Impact Statement is not necessary.

RATIONALE FOR DECISION

My decision to approve the proposed action, making recreational improvements to both Pearson Reservoirs, is based upon the following:

- Overall, the negative impacts on natural resources will be short-term
 - The increase in impervious surfaces will have a negligible impact on storm water discharges
 - Reservoir water quality will dramatically improve as a result of the proposed action
 - Wildlife and vegetation impacted by the construction will rebound after project completion
 - The improvement in water quality will have an overall positive long-term impact on natural resources, especially on fish survivability
 - The project will have a positive impact on the recreational usefulness of the area to the base population
 - The Wyoming State Historic Preservation Officer, the U.S. Fish and Wildlife Service, and the U.S. Army Corps of Engineers have been consulted and have no objection
-

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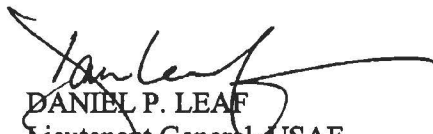
Based on the analysis in the EA, the impacts to wildlife and other resources resulting from the proposed project, independently or cumulatively, will not be significant. The project will have a long-term positive impact on water quality.

FINDING OF NO PRACTICABLE ALTERNATIVE

The proposed action, as designed, includes all practicable measures to minimize harm.

- Best management practices (BMPs) will be required for all construction activities, including erosion and storm water runoff control
- The impact to or destruction of existing wetlands or wetland vegetation will be minimized
- As many beneficial fish as possible will be captured and relocated prior to construction

Pursuant to Executive Orders 11990 and 11988, the authority delegated by SAFO 780-1 and 32 CFR Part 989, and taking the information contained in the attached environmental assessment into consideration, I find there is no practicable alternative to implementing the proposed action in a wetland.



DANIEL P. LEAF
Lieutenant General, USAF
Vice Commander, AFSPC

FINAL

ENVIRONMENTAL ASSESSMENT

IMPROVEMENT OF PEARSON RESERVOIRS

GHLN 99-1035

F. E. WARREN AIR FORCE BASE, WYOMING

November 2003

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1.0 INTRODUCTION

The Pearson Reservoirs (reservoirs), approximately dumbbell-shaped and consisting of a north reservoir and a south reservoir, are located near the center of Francis E. Warren Air Force Base (FEWAFB) (Figure 1). The reservoirs provide recreational opportunities for base residents and personnel while serving as a source of irrigation for the golf course. Opportunities for recreational day use include picnicking, non-motorized boating, hiking, bicycling, and wildlife viewing. Currently, the south reservoir has a boat ramp, fishing pier, individual picnic tables and grills, a large picnic pavilion, restrooms, and unimproved parking areas. The north reservoir has a boat ramp, fishing pier, picnic tables, and an unimproved parking area. An unimproved dirt road encircles both reservoirs.

2.0 PURPOSE OF AND NEED FOR ACTION

Several deficiencies are associated with the base reservoirs including inadequate depth, poor water quality, marginal conditions for fisheries, overgrown vegetation, and limited recreational opportunities. The water depth in each reservoir varies from approximately four feet in the south reservoir to eight feet in the north reservoir. Due to the extremely shallow depth, the south reservoir suffers from chronic water quality issues created by constant wave action churning the sediment in the bottom of the reservoir (e.g., high turbidity and low oxygen). The shallow depth of the reservoirs also contributes to fish kills, due to low dissolved oxygen levels, during the summer months. Fluctuating water levels have caused a significant proliferation of cattails along the shallower portions of the reservoirs, especially along the western shoreline of the north reservoir. The proliferation of cattails around the reservoirs has severely limited access for fishing.

3.0 DECISION TO BE MADE

Improvement of Pearson Reservoirs, whether to:

- a) Make improvements to both reservoirs (Proposed Action);
- b) Make improvements to the south reservoir only (Alternative 2);
- c) Make improvements to the north reservoir only (Alternative 3);
- d) Take no action (Alternative 4).

4.0 SCOPE OF THE ENVIRONMENTAL ASSESSMENT

This Environmental Assessment is required by the Air Force Environmental Impact Analysis Process (32 CFR 989), the National Environmental Policy Act (Public Law 91-190), Council on Environmental Quality (CEQ) Regulations (40 CFR Parts 1500-1508), and Air Force Instruction 32-7061, The Environmental Impact Analysis Process (1995). This Environmental Assessment identifies, describes, and evaluates the potential direct, indirect, and cumulative environmental impacts that could result from the construction of the proposed action. This Environmental Assessment also identifies mitigation and/or management measures to prevent or minimize environmental impacts.

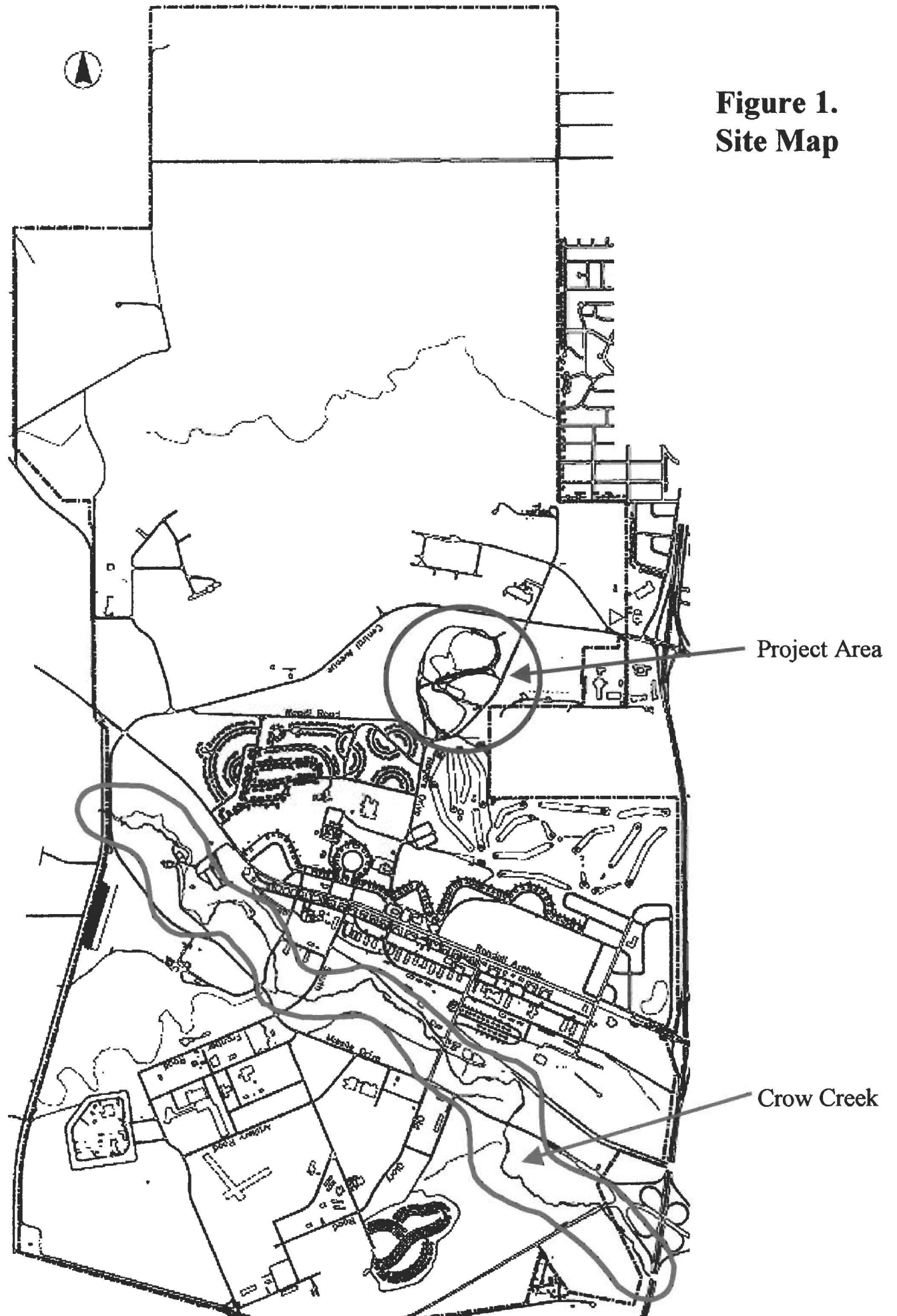


Figure 1.
Site Map

5.0 DESCRIPTION OF THE PROPOSED ACTION AND ALTERNATIVES

5.1 Alternative 1 – Proposed Action

The proposed action is to make various improvements to both of the reservoirs. These improvements include:

- ξ Deepening approximately 40 percent of each reservoir to a depth of 12 feet
- ξ Sealing each reservoir bottom with a bentonite liner
- ξ Reducing the extent of cattails along the perimeter of each reservoir
- ξ Constructing paved parking areas
- ξ Upgrading the perimeter roads and restricting use to pedestrian/bicycle traffic only
- ξ Installation of bird blinds for enhanced wildlife viewing opportunities
- ξ Placement of additional picnic tables and barbeque grills
- ξ Installation of sun shelters, benches, play equipment, and workout stations
- ξ Long-term maintenance to control sedimentation and cattail growth

5.2 Alternative 2 – South Reservoir

Alternative 2 is to make the improvements discussed above to the south reservoir only.

5.3 Alternative 3 – North Reservoir

Alternative 3 is to make the improvements discussed above to the north reservoir only.

5.4 Alternative 4 – No Action

Alternative 4 is to make no improvements to the base reservoirs, leaving them as is.

6.0 AFFECTED ENVIRONMENT

6.1 General Setting

FEWAFB is located in the southeastern corner of Wyoming on the western edge of the City of Cheyenne, in Laramie County. It is approximately 11 miles north of the Colorado-Wyoming border, 100 miles north of Denver, Colorado, and 45 miles west of the Nebraska-Wyoming border.

The base encompasses 5,866 acres and is oriented in a general north-south direction. The base is bounded on the east by Interstate Highway 25, which separates the base from high-density residential areas of Cheyenne. The base is bounded on the west by Roundtop Road, low-density residential development, and the U. S. Department of Agriculture's High Plains Grassland Research Station. The base is bounded on the north by generally open rangeland, and on the south by State Highway 210, low-density residential development, and open rangeland.

FEWAFB is the second-largest employer in the area, with the base payroll and expenditures infusing over \$300,000,000 into the local economy in fiscal year 2002. The base currently employs 952 civilians and 3,471 military personnel, totaling 4,423 persons.

6.2 Geography/Geology

FEWAFB lies within the High Plains section of the Great Plains Physiographic Province. Rocks within the region range in age from Pre-Cambrian to recent, and are composed primarily of shale with small amounts of sandstone, siltstone, and limestone. The base is in Seismic Zone I, which means there is a minor seismic event probability. Base topography is characterized by broad plateaus that are nearly flat in the historic core, and increase in slope along the ridgelines and along Crow Creek. Elevation ranges from 6,080 feet in the southeastern portion of the base, to 6,365 feet in the northern portion. Most areas with slopes of 10 percent or greater, which are generally considered unsuitable for construction, are located in the undeveloped northern third of the base.

The predominant soil series on the base is classified texturally as loamy, with an average topsoil depth ranging from four to six inches. The subsoil is primarily alluvial clay that extends from a depth of approximately 6 to 36 inches. Refer to the U. S. Department of Agriculture, Soil Conservation Service, *F. E. Warren Air Force Base Soil Report* (1992), for additional detail.

6.3 Water Resources

The installation is located within the Crow Creek Watershed, which is part of the South Platte River Basin. The Pearson Reservoirs are the largest water bodies on the installation, comprising approximately 32 acres of surface water. Additionally, the Pearson Reservoirs support approximately 10 of the installation's 127 acres of wetlands delineated on the U. S. Fish and Wildlife Service National Wetlands Inventory.

Depth to groundwater on the installation is variable but generally exceeds 5 feet.

6.4 Plant Communities

The wetland vegetation surrounding the reservoirs includes typical species such as common cattail (*Typha latifolia*), bulrush (*Scirpus* spp.), common spikerush (*Eleocharis palustris*), horsetails (*Equisetum laevigatum*), and sedge (*Carex* spp.). The submerged, lacustrine vegetation includes muskweed (*Myagrurn perfoliatum*), Eurasian water milfoil (*Myriophyllum spicatum*), sago pondweed (*Potamogeton pectinatus*), and horned pondweed (*Zannichellia palustris*). Willows (*Salix* spp.), cottonwoods (*Populus deltoides*), chokecherry (*Prunus virginia*), and Russian olive (*Elaeagnus angustifolia*) are the typical woody plant species that grow along the perimeter of the reservoirs.

Several noxious weed species are known to occur on the base. Of these species, Canada thistle (*Cirsium arvense*), Dalmatian toadflax (*Linaria dalmatica*), and Leafy spurge (*Euphorbia esula*) are the most important.

6.5 Wildlife

A relatively large herd of pronghorn antelope (*Antilocapra americana*) inhabits the base. Although the pronghorn on the installation are a part of the larger Iron Mountain herd, the recent construction of a chain link perimeter fence has permanently enclosed approximately 300 pronghorn on the installation. This estimate is derived from historical population data. The pronghorn are free ranging and occur throughout the base. They are frequently seen in the vicinity of the base reservoirs.

At least 139 species of birds have been recorded on the base. Included among the several species of waterfowl are the tundra swan (*Cygnus columbianus*), Canada goose (*Branta canadensis*), and wood duck (*Aix sponsa*). The birds-of-prey recorded on the base include the turkey vulture (*Cathartes aura*), bald eagle (*Haliaeetus leucocephalus*), peregrine falcon (*Falco peregrinus*), and several species of hawk (*Buteo spp.*) (WEST 2001).

Several species of trout have been stocked in the reservoirs, including brown trout (*Salmo trutta*), rainbow trout (*Salmo gairdneri*), brook trout (*Salvelinus fontinalis*), lake trout (*Salvelinus namaycush*) and Snake River cutthroat trout (*Oncorhynchus clarki*).

6.6 Threatened/Endangered, Species of Concern

Two threatened species native to the Front Range of the Rocky Mountains, Preble's meadow jumping mouse (*Zapus hudsonius preblei*) and the Colorado butterfly plant (*Gaura neomexicana* ssp. *coloradensis*), are known to occur on the installation in the riparian areas.

Other species of concern that may inhabit the base include the swift fox (*Vulpes velox*) and the burrowing owl (*Athene cunicularia*).

6.7 Cultural/Archaeological

FEWAFB has approximately 214 impressive brick structures listed in the National Register of Historic Places. Most of these facilities are located within the central core of the base, designated as a Historic District in 1969 under the provisions of the National Historic Preservation Act, and designated the Fort D. A. Russell National Historic Landmark in 1972.

The installation also contains 131 archaeological sites, 71 of which are eligible or potentially eligible for inclusion in the National Register of Historic Places.

7.0 ENVIRONMENTAL CONSEQUENCES

The proposed action and alternatives are not expected to generate any significant impacts to land use, Air Installation Compatible Use Zones, health and safety, hazardous waste, utilities, transportation, environmental justice, or socioeconomic conditions. Therefore, these impacts will not be discussed individually or in detail below.

7.1 All Alternatives (Except No Action)

Geology and Soils

Direct and Indirect Impacts – Ground disturbance during construction will create a short-term increase in the potential for soil erosion. The soils most widespread on FEWAFB are susceptible to wind and water erosion.

Proposed Mitigation Measures – The construction contractors will be required to provide erosion and sediment control measures in accordance with federal, state, and local laws and regulations. The area of bare soil exposed at any one time by construction operations shall be kept to minimum. The erosion and sediment control measures should substantially reduce soil erosion associated with the project.

Cumulative Impacts – Restricting access on the perimeter roads around the reservoirs to pedestrians and bicycles will reduce the erosion problems that currently exist. The excavation of the reservoirs, in addition to other construction projects planned for the installation, will result in long-term displacement of soils from various locations.

Air Quality

Direct and Indirect Impacts – A short-term increase in fugitive dust would be generated by ground disturbing activities. The amount of fugitive dust would depend largely on weather conditions during construction, with windy conditions generating the most fugitive dust. Increases in fugitive dust would be temporary and not likely to significantly affect air quality. There would also be a short-term increase in vehicle emissions generated by construction equipment. Cheyenne and the surrounding area are currently in attainment and the Proposed Action and alternatives would not affect this status.

Proposed Mitigation Measures – Construction contractors would be required to implement procedures to minimize dust particles associated with project activities. The contractors shall maintain excavations, stockpiles, haul roads, permanent and temporary access roads, and other work areas within or outside the project boundaries free from particulates that would violate federal, state or local air pollution standards or create a nuisance.

Cumulative Impacts – Since there are no major mission changes or population fluctuations anticipated in the foreseeable future, no cumulative impacts to air quality are anticipated.

Water Resources

Direct and Indirect Impacts – A short-term increase in construction-related storm water discharges is expected. A storm water construction permit will be needed because construction activities will disturb more than 1 acre. According to the Army Corps of Engineers, the Pearson Reservoirs are not jurisdictional wetlands, making a Section 404 permit unnecessary. The construction of asphalt parking areas will increase impervious surface and generate additional storm water runoff. The amount of runoff is expected to be insignificant. Water quality in the south reservoir is expected to dramatically improve as a result of the project. The water storage capacity of one or both of the reservoirs will permanently increase.

Proposed Mitigation Measures – Construction contractors will be required to monitor construction activities to prevent pollution of surface and ground waters. Construction contractors will be required to provide erosion and sediment control measures in accordance with federal, state, and local laws and regulations. The area of bare soil exposed at any one time by construction operations will be kept to a minimum. This will also help control dust at the site. Contractors will apply Best Management Practices (BMPs) for erosion and sediment control. BMPs include vegetation cover, silt fences, sediment traps, inlet and outfall protection, and sedimentation basins. Temporary control measures should substantially reduce the likelihood of an adverse impact to any water resources.

Cumulative Impacts – The water storage capacity of one or both of the reservoirs will be permanently increased. With the exception of the initial refilling of the reservoirs, water usage is not expected to change from current levels.

Natural Resources

Direct and Indirect Impacts – There will be temporary displacement of birds, fish, and wildlife during construction activities. However, since only one reservoir will be under construction at a time, the impact to birds, fish, and wildlife is expected to be minimal. Overall, the project is expected to have a long-term positive impact on wildlife by reducing fish kills and improving water quality. Additionally, bird blinds will be installed to enhance wildlife observation opportunities.

Isolated wetlands and associated vegetation surrounding the reservoirs will be disturbed during construction activities, but are expected to rebound quickly once construction is completed.

There are no anticipated impacts to threatened or endangered species. A letter from the U.S. Fish and Wildlife Service, dated 13 May 2003, states in part, “the Service concurs with your determination that the project, as proposed, will not affect the Preble’s meadow jumping mouse or the Colorado butterfly plant.”

Proposed Mitigation Measures – As many fish as possible will be relocated prior to construction activities.

Cumulative Impacts – The base is also proposing the construction of a basewide trail network that has the potential to disturb wetlands and associated vegetation near Crow Creek. The portion of the trail that will be adjacent to Crow Creek is proposed as an elevated trail in order to minimize impacts to wetlands and associated vegetation, and also to minimize disturbance to threatened species.

Cultural/Archaeological Resources

Direct and Indirect Impacts – The project area was surveyed for cultural resources in 1983, using a Class III survey employing 30-meter transects to locate all historic or prehistoric sites visible on the surface. Only one site, 48LA2059 (formerly 48LA71JJ), was located approximately 100 meters west of the project area. The site consists of the concrete remains of the ‘butts’ of a rifle range used from the early 1900s to the 1970s. The site is eligible for inclusion on the National Register of Historic Places, but will not be directly or indirectly affected by the Proposed Action or any of the alternatives. The Wyoming State Historic Preservation Office has reviewed this project (SHPO #0303SES013) and has concurred with F. E. Warren AFB that there will be no effects to historic properties.

Proposed Mitigation Measures – No mitigation measures are proposed.

Cumulative Impacts – There are no foreseeable impacts to historic resources resulting from the Proposed Action or alternatives. Therefore, there are no anticipated cumulative impacts.

Noise

Direct and Indirect Impacts – There will be a short-term increase in noise associated with project activities. Due to the relatively isolated location, any noise generated by construction activities should not constitute a nuisance. The major sources of noise for this area include fixed-wing aircraft from the Cheyenne Municipal Airport, rotary-wing aircraft from the installation’s flying operations, and traffic on Rogers Drive.

Proposed Mitigation Measures – No mitigation measures are proposed.

Cumulative Impacts – Impacts related to noise would be short-term. There are no anticipated cumulative impacts to noise.

Solid Waste

Direct and Indirect Impacts – There will be non-hazardous excavation material generated by this project.

Proposed Mitigation Measures – Contractors will be required to dispose of all generated wastes. Contractors will be required to provide a waste plan that identifies their methods of and locations for solid waste disposal, including clearing debris. Contractors will also be required to submit a recycling and solid waste minimization plan. The plan will detail the contractors' actions to comply with and participate in federal, state, and local government-sponsored recycling programs to reduce the volume of solid waste generated by the project.

Cumulative Impacts – Since there are no major mission changes or population fluctuations anticipated in the foreseeable future, no cumulative impacts to solid waste are anticipated.

Hazardous Materials

Direct and Indirect Impacts – There is a potential for spills of petroleum, petroleum products, oil, and/or lubricants from equipment during the construction phase of the project.

Proposed Mitigation Measures – The contractor shall be responsible for the clean up of any spills. The contractor shall also be required to immediately notify the installation's fire department and environmental management office upon discovery of any spills.

Cumulative Impacts – Impacts resulting from spills would be short-term. There are no anticipated cumulative impacts to hazardous materials.

7.2 Alternative 4 – No Action

The Pearson Reservoirs would remain in their current condition. Water quality in the south reservoir will remain degraded. The shallow depth of each reservoir will continue to contribute to fish kills during the summer months. Cattails will continue to take over the shoreline, further restricting access for fishing.

8.0 PERSONS AND AGENCIES CONSULTED

The following agencies/individuals were contacted and/or provided a copy of the EA during its original preparation.

Darren Horstmeier (90 CES/CECB) Community Planner 300 Vesle Drive F. E. Warren AFB, WY 82005	Kurt Warmbier (90 SW/JA) Environmental Attorney 6307 Randall Avenue F. E. Warren AFB, WY 82005
Richard Bryant (90 CES/CECEH) Historic Preservation Officer 300 Vesle Drive F. E. Warren AFB, WY 82005	Lucas Osborne (90 CES/CECE) Project Manager 300 Vesle Drive F. E. Warren AFB, WY 82005
Robert Miknis (90 CES/CEVC) Water Quality Manager 6203 15th Cavalry Avenue F. E. Warren AFB, WY 82005	Cathryn Pesenti (90 CES/CEVP) Natural Resources Manager 6203 15th Cavalry Avenue F. E. Warren AFB, WY 82005
Dena Maher (90 MDOS/SGOAB) Bioenvironmental Engineering 7200 Garrison Loop F. E. Warren AFB, WY 82005	Carol Cox (90 SVS/SVRO) Outdoor Recreation 6205 15th Cavalry Avenue F. E. Warren AFB, WY 82005
U. S. Fish and Wildlife Service 4000 Airport Parkway Cheyenne, WY 82001	Wyoming State Historic Preservation Office 2301 Central Avenue Cheyenne, WY 82002
Army Corps of Engineers 2232 Dell Range Boulevard, Ste 210 Cheyenne, WY 82009-4942	

9.0 REFERENCES

- A.V.I. Professional Corporation. 2002. F. E. Warren AFB, Maintain Pearson Lake/Phase 1, 100% Investigative.
- United States Air Force. 1997. F. E. Warren AFB Economic Impact Statement Fiscal Year 1997. United States Air Force, 90th Space Wing Financial Management, F. E. Warren Air Force Base, Wyoming
- United States Air Force. 2000. F. E. Warren Air Force Base General Plan
- United States Natural Resources Conservation Service. 1992. Preliminary Soil Survey, F. E. Warren AFB
- Western Ecosystems Technology (WEST). 2001. Threatened and Endangered Species Operational Component Plan for Francis E. Warren Air Force Base
- Western Ecosystems Technology (WEST). 2001. Fish and Wildlife Management Plan for Francis E. Warren Air Force Base

APPENDIX A: AGENCY COORDINATION

0303SES013
LT GUSSON



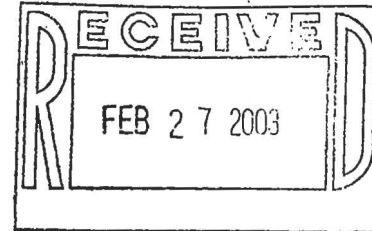
DEPARTMENT OF THE AIR FORCE

90TH SPACE WING (AFSPC)

25 February 2003

90 CES/CEC
300 Vesle Drive
F. E. Warren AFB WY 82005

Ms. Judy Wolf
State Historic Preservation Office
2301 Central Ave
Barrett Building, Third Floor North
Cheyenne WY 82002



Dear Ms. Wolf

F. E. Warren AFB proposes to dredge Pearson Lake in the northern portion of the base to improve fish habitat. The lake will be drained and about 12 feet of lake bottom will be dug out and the cattails along the southern shore will be cut back. The dirt will be deposited along the western shore to form a berm that will deflect storm water runoff from the nearby housing area during heavy flood events.

The berm was originally planned as part of the base-wide storm drainage project (SHPO # 0301KLK008), which has not yet completed Section 106 review. However, using the excavated dirt to construct a berm at this time will save costs on both the dredging project and the subsequent storm drainage project. There are no prehistoric archeological sites in the area. The nearest historic site is 48LA71II, a series of rifle ranges used from WWI through the 1960s. The berm will be about 200 feet from the eastern edge of the site and it will not be affected. The project location is shown on the attached map.

We have determined that this project will have no adverse effect on historic properties and are requesting your comments pursuant to 36CFR800 and our Programmatic Memorandum of Agreement. If you have any questions, please contact Rick Bryant at 307-773-3667 or via E-mail at richard.bryant@warren.af.mil.

Sincerely

ROBERT D. HERB, GM-13
Chief, Engineering Flight

Attachment:
Location Map

cc:
90 CES/CC
90 CES/CECE

Wyoming State Historic Preservation Office

Concur:
SHPO Review No. 0303SES013
Date: 3/25/03



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
WYOMING REGULATORY OFFICE
2232 DELL RANGE, BLVD., SUITE 210
CHEYENNE, WYOMING 82009-4942

REPLY TO
ATTENTION OF:

August 15, 2003

Thomas B. Johnson, P.E.
Project Manager

Ms. Cathryn Pesenti
Department of the Air Force
90 CES/CEVP
300 Vesle Drive, Suite 600
F.E. Warren Air Force Base, Wyoming 82005

Dear Ms. Pesenti:

This letter is in response to your request we received on July 29, 2003, for a jurisdictional determination concerning proposed dredging activities in North and South Pearson Lakes and adjacent wetlands. The lakes are located in the southeast quarter of Section 23, Township 14 North, Range 67 West, Laramie County, Wyoming.

The U.S. Army Corps of Engineers regulates the placement of dredged and fill material into wetlands and other waters of the United States as authorized primarily by Section 404 of the Clean Water Act (33 U.S.C. 1344). The term "waters of the United States" has been broadly defined by statute, regulation, and judicial interpretation to include all waters that were, are, or could be used in interstate commerce such as rivers, streams (including ephemeral streams), reservoirs, and lakes as well as wetlands adjacent to those areas. The Corps regulations were published in the November 13, 1986, edition of the Federal Register (Vol. 51, No. 219) at 33 CFR Parts 320 through 330. Information on Section 404 program requirements in Wyoming can be obtained by visiting our web site at <http://www.nwo.usace.army.mil/html/od-rwy/Wyoming.htm>.

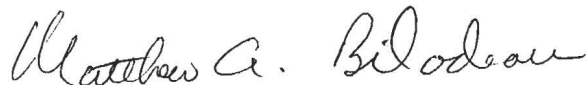
In the case of Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers, No. 99-1178 (January 9, 2001) (SWANCC), the U.S. Supreme Court held that the Corps exceeded its statutory authority by asserting jurisdiction over "an abandoned sand and gravel pit in northern Illinois which provides habitat for migratory birds." Although the Court held that the Corps' application of §328.3(a)(3) was invalid in SWANCC, the Court did not strike down §328.3(a)(3) or any other component of the regulations defining "waters of the United States." However, in light of the Court's ruling, the Corps will no longer rely on the use of waters or wetlands as habitat by migratory birds as the sole basis for the assertion of regulatory jurisdiction over isolated, non-navigable, intrastate waters.

Based on the information provided and our review of topographic maps for the area, it has been determined that North and South Lake Pearson are isolated. In this case, the lakes and adjacent wetlands are not waters of the United States under Section 404 of the Clean Water Act due to the SWANCC ruling. Therefore, Department of the Army authorization is not required for the proposed dredging activities.

This determination does not eliminate the requirement to obtain any other applicable federal, state, tribal, or local permits that may be required.

Thank you for your interest in cooperating with the requirements of the U.S. Army Corps of Engineers regulatory program. If you have any questions regarding this determination, please contact Mr. Thomas Johnson at (307) 772-2300 and reference file No. 200340168.

Sincerely,



Matthew A. Bilodeau
Program Manager
Wyoming Regulatory Office

Copies Furnished:

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United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
4000 Airport Parkway
Cheyenne, Wyoming 82001

In Reply Refer To:
ES-61411/W.10/WY7130

May 13, 2003

Cathryn Pesenti, Natural Resources Program Manager
F.E. Warren Air Force Base
90 CES/CEV
300 Vesle Drive, Suite 600
F. E. Warren AFB, WY 82005

Dear Ms. Pesenti:

The U.S. Fish and Wildlife Service (Service) has reviewed your request pertaining to threatened and endangered species concurrence for the North and South Pearson Reservoirs at F. E. Warren Air Force Base (Warren AFB) in Laramie County, Wyoming. Warren AFB proposes to deepen both the north and south lakes to a depth of 12 feet, close the perimeter road to motorized traffic, convert the perimeter road to a hiking/bicycling pedestrian trail, create formal parking areas, thin cattails to allow access for fishermen, and add recreational amenities such as picnic tables, benches, and BBQ pits. Construction activities are scheduled to begin in the fall of 2003 at the south lake and will take approximately six months to complete. Construction activities for the north lake have not been scheduled to date.

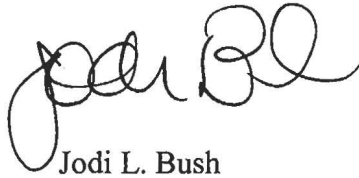
The proposed project is located a considerable distance north of Randall Avenue. Suitable habitats for both the Preble's meadow jumping mouse (*Zapus hudsonius preblei*) and the Colorado butterfly plant (*Gaura neomexicana* ssp. *coloradensis*) are closely associated with Crow Creek, Diamond Creek, and the unnamed tributary located south of Randall Avenue. The proposed project area of the north and south base lakes are not located within suitable habitat for these two federally-listed species. Therefore, the Service concurs with your determination that the project, as proposed, will not affect the Preble's meadow jumping mouse or the Colorado butterfly plant.

This concludes informal consultation pursuant to the regulations implementing the Endangered Species Act of 1973 (Act), as amended (50 C.F.R. § 402.13). This project should be re-analyzed if new information reveals effects of the action that may affect listed or proposed species or designated or proposed critical habitat in a manner or to an extent not considered in this

consultation; if the action is subsequently modified in a manner that causes an effect to a listed or proposed species or designated or proposed critical habitat that was not considered in this consultation; and/or, if a new species is listed or critical habitat is designated that may be affected by this project.

Thank you for the opportunity to review the proposed project. If you have any questions regarding this letter or your responsibilities under the Act, please contact Melissia Carter of my staff at the letterhead address or phone (307) 772-2374, extension 29.

Sincerely,

A handwritten signature in black ink, appearing to read "Jodi L. Bush". The signature is fluid and cursive, with the first name "Jodi" being more prominent than the last name "Bush".

Jodi L. Bush
Acting Field Supervisor
Wyoming Field Office

cc: WGFD, Statewide Habitat Protection Coordinator, Cheyenne, WY (T. Collins)
WGFD, Non-Game Coordinator, Lander, WY (B. Oakleaf)